

Appl. No.: 10/684,893

Amdt. dated 02/17/2006

Reply to Office action of November 17, 2005

REMARKS/ARGUMENTS

Reexamination and reconsideration of this application, withdrawal of the rejections, and formal notification of the allowability of all claims as now presented are earnestly solicited in light of the above amendments and remarks that follow.

Claims 1-13 and 15-27 are pending. Claim 5 has been amended to recite that the methylene groups are adjacent to the hydrolytically unstable linkages. Claim 7 has been amended to differentiate claim 7 from claim 1 by restricting claim 7 to certain ester linkages. Claim 10 has been amended to remove superfluous language and to depend from claim 1. Certain other minor changes, such as punctuation changes, are presented in claim 10. Claim 14 has been cancelled and claim 15 has been amended to depend from claim 1 and remove certain superfluous language. New claims 18-27 are presented. Support for the new claims can be found throughout the specification. For example, support for claim 18 can be found on page 10 (paragraph 49), support for claim 19 can be found on page 10 (paragraph 47), support for claim 20 can be found on page 12 (paragraphs 54-55), support for claim 21 can be found on page 10 (paragraphs 48-49), support for claim 22 can be found on page 9 (paragraphs 40-41), support for claims 23 and 24 can be found on page 12 (paragraph 57), and support for method claims 25-27 can be found on pages 8, 10, and 11, respectively. Applicant submits that no new matter is introduced by these amendments.

Applicants note that claim 17 should not be designated as withdrawn. There is nothing inconsistent about claim 17 with respect to the elected species. Further, it is noted that claim 1, which is generic, should be allowable over the cited art. Thus, additional species should be examined and Applicant submits that all claims should be examined and allowed in the present application.

Claims 5, 6, and 10-13 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, the Examiner objects to the phrase "in proximity" in claim 5 and the use of the term "suitable" in claim 10. Applicant has amended claim 5 and claim 10 to remove the claim terms mentioned by the Examiner. It is noted that it is not necessary to use the terms noted in the Office Action in order to define the invention. As a result, Applicant has amended the

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claims to remove these phrases in order to expedite prosecution. In light of the foregoing, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 1-9 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,607,687 to Bezwada *et al.* The Examiner relies upon the Bezwada reference as disclosing a composition comprising PEG polymers and coupling agents, such as glycerin. Applicant respectfully traverses this rejection.


The standard for anticipation is rigorous requiring that every element of the claimed invention be disclosed by a single prior art reference. *See Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed.Cir.1992); *Scripps*, 927 F.2d at 1576-77; *Lindemann Maschinenfabrik GMBH, v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed.Cir. 1984).

The Bezwada reference is directed to polymer blends comprising an aliphatic polyoxaester having a given formula that comprises two distinct repeating units and a second polymer selected from a given list. The detailed description section of the reference first describes preparation of a prepolymer formed by copolymerizing an aliphatic α -oxycarboxylic acid (formula V), a diol (formula VI), and a lactone polymer (formulas IX or X) in order to form a polymer generally described by formulas XII or XIII. See columns 3 and 4. The Bezwada reference then suggests that a coupling agent may be added "[t]o the diols, aliphatic polyoxycarboxylic acids and lactone monomers ..." (Column 4, lines 52-57). Thus, the Bezwada reference only suggests the use of polyfunctional coupling agents in the context of reaction with a copolymer comprising a lactone polymer. It is not believed that one of ordinary skill in the art would read the Bezwada reference as suggesting a crosslinked polymeric structure of the type presently claimed where PEG polymers are crosslinked in the absence of non-PEG polymers. Such a crosslinked structure is simply not disclosed in the Bezwada patent. In fact, it is clear that crosslinked polymers are not the focus of the Bezwada patent at all. None of the examples provided in the patent are directed to crosslinked structures and none of the claims are directed to crosslinked structures. For the reasons set forth above, Applicant respectfully requests reconsideration and withdrawal of the rejection.

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It is not believed that extensions of time or fees for not addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for not addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

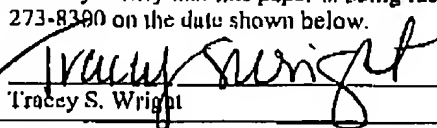
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2/17/06
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